

*Dist. by Sen. Black SB 291*

EXHIBIT 2  
DATE 4/1/09  
SB 291

SB 291 Clarifications – Sen. Black

SB 291 establishes the Montana Railroad Development Authority (MRDA) as a replacement of the Rail Service Competition Council (RSCC).

Currently, under section 2-15-2511 MCA, the RSCC duties consist of the following.

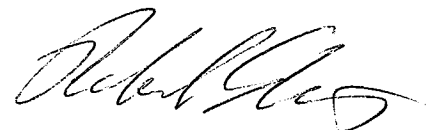
- Promote rail service competition that results in reliable and adequate service at reasonable rates
- Develop a comprehensive and coordinated plan to increase rail service competition
- Reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden
- Develop various means to assist Montanans impacted by high rates and poor rail service
- Analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities
- Provide advice and recommendations to the Department of Transportation
- Coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition
- Act as the state's liaison in working with Class I railroads to promote rail service competition
- Promote the expansion of existing rail lines and the construction of new rail lines

The Montana Railroad Development Authority (MRDA) would be responsible for all the duties of the RSCC listed above except the provision that requires the reevaluation of the state's railroad taxation practices (which the RSCC has previously failed to do anyway).

The MRDA replaces, improves, and strengthens the RSCC by making it more effective and efficient. Essential improvements the MRDA would provide are:

- Creates much more latitude in making proposals to the state legislature
- Budget is exactly the same as the RSCC under the DOT
- Any project authorized by the MRDA would have to be approved by the state legislature
- Gives bonding authority to the MRDA
- Able to make decisions on the purchase, bonding, or retaining of rail-lines and spurs that would benefit the state
- The members of the MRDA would include the same qualifications required by the RSCC
  - The MRDA would eliminate the director of the Department of Revenue as a member
  - It would replace the director of the DOR with a knowledgeable member with expertise in passenger and structure of Railroads
- Ability to address abandonment of rails and rail passenger services

The MRDA is the evolution of the RSCC into a body recognized by statute. Montana cities and counties currently have their own Railroad Authorities. The MRDA would give the state of Montana the same authority the cities and counties currently possess. Without a railroad authority in Montana the RSCC is unable to adequately act to improve the railroad conditions within the state.



## State of Washington

- Railroad Authorities enabled by statute, but none created.
- In 2007, state bought Palouse River & Coulee City Railroad, 300 miles, \$19 mm.
- Three lessees. Paper barriers handled through AAR "Rule 11," entailing split rates by ownership segments (i.e., short line charges separately from trunk carrier). Minimal state role in negotiation with major carriers.
- Successes:
  - Too early to say.
- Challenges:
  - Paper barriers: State sunshine laws inhibited public offices from negotiating interchange commitments, due to private concerns about the confidentiality of contract negotiations.
  - Profit squeeze: Small operators; significant deferred maintenance; low density line.

## State of Oregon

- Oregon has one authority, the Willamette Union Railroad Authority, in NE Oregon, 63 miles, purchased for \$6.5 million in 2002.
- Funds of \$2m state appropriation, \$4.5m state economic development loan. Federal support enabled payback of \$4m of the state loan funds and minimized debt.
- Eagle Cap Excursion tourism train is now the major rail activity. Wood products shippers have since closed, and fuel imports are now the main commercial traffic. Average freight traffic is less than one freight car-mile per year.
- Successes: Line is active & operational. Debt is less than salvage value. Corridor is preserved. Tourism activity benefits local economic development. Wood products shippers could rebound.
- Challenges: Maintenance and operating costs; sparse commercial activity.

## State of Oklahoma

- Oklahoma's Legislature created the "Railroad Revitalization Act" in 1978. The act empowered the DOT to act like a Rail Authority in it's ability to acquire, construct, operate and maintain railroad right-of-way and trackage projects. The state enters into agreements with owner/operators and carriers for use of rail right-of-way.
- State owns and leases 900 miles of track, a \$35 million investment. Seven Lessees, nine separate operations.
- Funds are generated from leases and the Oklahoma Freight Car Tax (4% of gross earnings).
- Paper barriers have not been an issue. State does not involve itself in negotiations between carriers.
- Successes: State-owned rail infrastructure constitutes 24% of routes in service. Act prevented significant abandonment and downsizing of rail infrastructure. Economic growth for areas served.
- Challenges: inflationary cost of rail materials reducing buying power.

## State of Colorado

- State of Colorado legislated that a Railroad Authority be created to specifically conduct a feasibility study of high-speed passenger rail in the I-25 and I-70 corridors of Colorado and to connect with other states.
- CDOT Commission approved \$1,246,000 grant for study. Required 20% match from local communities.
- Rocky Mountain Rail Authority was formed through inter-governmental agreements with 46 local governments to work with CDOT on feasibility study and high-speed rail issues.
- \$1.5 million dedicated to the feasibility study which is expected to be completed Spring 2009.
- No paper barriers - only contractual agreements are intergovernmental and with consultants for study.
- Successes: Early in process. Outcome of report will help determine if Colorado will apply for federal designation as a "high-speed rail corridor". Eligible for federal funds with designation.
- Challenges: Relocating freight traffic from Front Range to eastern plains to make room for high-speed passenger trains, if feasible.

## South Dakota

- SD acquired the Milwaukee Road at the time of its closure, and had leased the core line to BN.
- "Bridge" service negotiated prior to Nov. 2005 sale of the core line to BNSF.
- Applies to shipments originating or terminating in the state.
- Specific industries and branch lines are identified.

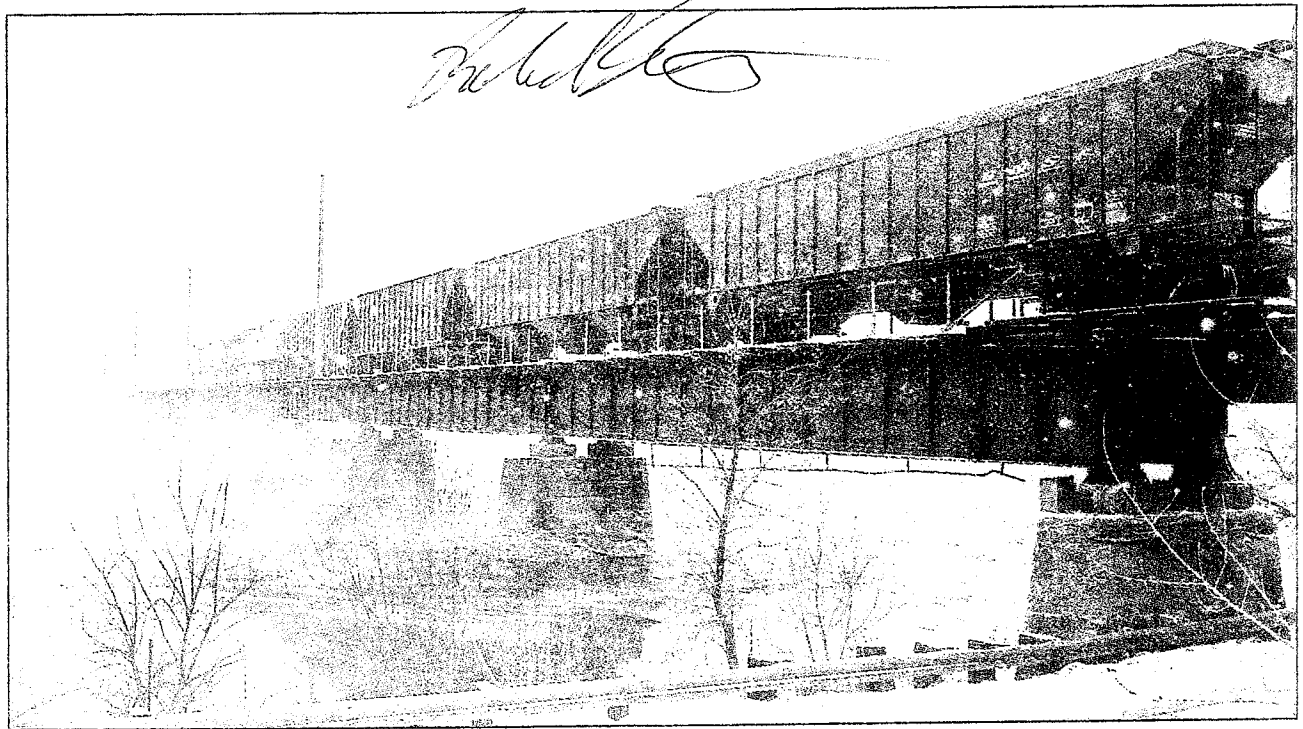
## North Dakota

- Issue of paper barriers has not been raised.
- Public Service Commission has authority over regulatory issues.
- Cases go to federal STB.
- State is prohibited from owning or operating rail lines. Rail authorities allowed, but none have been established.

# State pays highest rates



TRIBUNE FILE PHOTO  
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urt last year.



TRIBUNE PHOTO/RYAN HALL

A BNSF train crosses the bridge over the Missouri River west of Central Avenue West on Thursday morning.

## BNSF says report's numbers are outdated

By JO DEE BLACK  
Tribune Business Editor

Montana grain farmers pay the highest rail rates in the country, according to a state-commissioned report released Thursday.

"This report clearly documents what Montana farmers and ranchers already know from hard experience — they are being charged excessive rates for substandard service," Montana Attorney General Steve Bullock wrote in a news release. "Shippers need competition and they need a fair rate to move their goods to the marketplace."

Officials at BNSF Railway,

which controls 95 percent of rail freight transportation in Montana, said the report is based on outdated data. They say that charges of poor service by the railroad are "a gross exaggeration" of what the situation is today.

The report is the result of a \$3 million appropriation of the 2007 Legislature to research rail issues.

Its release arrived on the heels of an announcement last month by BNSF and two Montana grain-producer organizations of a mediation agreement that allows farmers to have complaints about rail rates heard by BNSF. If mediation fails, cases move to



**VIEW THE REPORT:**  
Click on this story at  
[www.gftrib.com](http://www.gftrib.com) to  
read the Justice Department's  
full report.

third-party binding arbitration. Although Bullock and Gov. Brian Schweitzer said they are committed to making sure the agreement works, they also pledged to push for relief for the state's farmers at the federal level.

"We obviously welcome the governor's support of this historic mediation agreement, but the data used in this report is three years old already and (BNSF) has made a concerted effort to improve service since

then," said Bing Von Bergen, president of the Montana Grain Growers Association, which negotiated the terms of the mediation agreement, along with the Montana Farmer Bureau Federation.

However, officials with another farm group, the Montana Farmers Union, said the report reveals the situations the state's farmers must deal with as shippers that rely, for the most part, on a single railroad.

"The findings outlined have been experienced and discussed by Montana's agriculture producers for years, and

See RATES, 3A

## Senate hopes to tackle budget, environmental b

By JOHN S. ADAMS  
Tribune Capitol Bureau

HELENA — Democrats and Republicans in the Senate drew

Senate President Bob Story, R-Park City, said projects eligible for federal stimulus funding can't be tied up by extended environmental appeals.



rollback environmental provisions. He said it's a case of "tail wagging the dog."

"We have recognized the need to refine the process, but the work around this particular is

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